

BEFORE THE IDAHO STATE BOARD OF
DRINKING WATER AND WASTEWATER PROFESSIONALS

In the Matter of the License of:)
) Case No. WWP-2006-1
ZIYAD HADZISELIMOVIC,)
License No. WWT1-13966,) **STIPULATION AND**
) **CONSENT ORDER**
Respondent.)
)

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WHEREAS, information having been received by the Idaho State Board of Drinking Water and Wastewater Professionals (hereinafter the "Board") which constitutes sufficient grounds for the initiation of an administrative action against Zijad Hadziselimovic (hereinafter "Respondent"); and

WHEREAS, the parties mutually agree to settle the matter pending administrative Board action in an expeditious manner; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

A.

1. The Board may regulate the practice of drinking water operators, wastewater operators, and backflow assembly testers in the State of Idaho in accordance with title 54, chapter 24, Idaho Code.

2. Respondent Zijad Hadziselimovic is a licensee of the Idaho State Board of Drinking Water and Wastewater Professionals and holds License No. WWT1-13966 to practice as a wastewater treatment operator in the State of Idaho. Respondent's license is subject to the provisions of title 54, chapter 24, Idaho Code.

3. On or about November 9, 2005, Respondent presented at 601 Poleline Road, Twin Falls, Idaho, to take the wastewater operator examination. The examination was proctored by Bureau of Occupational Licenses Investigator Penny Ragland.

4. As each candidate arrived for the exam, Ms. Ragland checked the candidate's identification, took the candidate's admittance letter, required the candidate to sign a login sheet, and gave the candidate a closed manila envelope that contained the testing material. Ms. Ragland then instructed each candidate to not open the envelope, to take a seat and to wait for instructions.

5. Prior to being instructed to open the test packet envelope, Respondent filled out his name, identification number and special code portion on the answer sheet. The exam booklet seal was not broken, so Ms. Ragland allowed Respondent to continue.

6. Ms. Ragland then read to the candidates the exam instructions, which included the following:

All ABC standardized exams are closed book. No reference materials, programmable calculators, computers, or cameras are allowed in the examination site. Please clear your work areas except for two sharpened soft-lead (No. 2 or HB) pencils, erasers, and a calculator.

7. After instructing the candidates, Ms. Ragland noticed that Respondent had a large black binder on the table just above his work area. Ms. Ragland informed Respondent that he needed to move the binder off of his table pursuant to the instructions that she read. Ms. Ragland then provided each candidate with two sheets of scratch paper.

8. After the exam, Respondent took his exam packet to Ms. Ragland. Ms. Ragland noticed that Respondent failed to turn in his scratch paper with the exam and asked him where his scratch paper was. Ms. Ragland then followed Respondent to his table and discovered pieces of paper in addition to the two sheets of scratch paper Ms. Ragland had provided. One of the papers contained formulas which Respondent stated he had created at home the evening before the test. Another sheet contained notes which Respondent stated he made during the exam, and another sheet contained a formula that Respondent stated he copied out of the test book to take home with him. Ms. Ragland

then took possession of all of the papers on Respondent's desk.

9. Respondent was issued a Wastewater Operator Treatment Class I license on November 29, 2005.

10. The above-stated allegations, if proven, would constitute a violation of the laws and rules governing obtaining a wastewater operator treatment license, specifically Idaho Code §§ 54-2409 and 54-2412 and IDAPA 24.05.01.300.01. Violations of these laws and rules would further constitute grounds for disciplinary action against Respondent's license to practice as a wastewater treatment operator in the State of Idaho.

11. Respondent, in lieu of proceeding with a formal disciplinary action to adjudicate the allegations as set forth above, hereby admits the violations and agrees to the discipline against his license as set forth in Section C below.

B.

I, Zijad Hadziselimovic, by affixing my signature hereto, acknowledge that:

1. I have read and admit the allegations pending before the Board, as stated above in section A. I further understand that these allegations constitute cause for disciplinary action upon my license to practice as a wastewater treatment operator in the State of Idaho.

2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to so testify myself; the right to reconsideration; the right to appeal; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of a wastewater treatment operators in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this stipulation as a resolution of the pending allegations.

3. I understand that in signing this consent order I am enabling the Board to impose disciplinary action upon my license without further process.

/ / /

C.

Based upon the foregoing stipulation, it is agreed that the Board may issue a decision and order upon this stipulation whereby:

1. License No. WWT1-13966 issued to Respondent Zijad Hadziselimovic is hereby REVOKED, and Respondent shall immediately return said license to the Bureau of Occupational Licenses.
2. Respondent shall pay investigative costs and attorney fees in the amount of Four Hundred and No/100 Dollars (\$400.00) within thirty (30) days of the entry of the Board's Order.
3. Respondent shall be eligible to apply in January of 2007 to retake the license examination governed by the Board in March of 2007.
4. The violation of any of the terms of this Stipulation by Respondent will warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation.

D.

1. It is hereby agreed between the parties that this Stipulation shall be presented to the Board with a recommendation for approval from the Deputy Attorney General responsible for prosecution before the Board at the next regularly scheduled meeting of the Board.
2. Respondent understands that the Board is free to accept, modify with Respondent's approval, or reject this Stipulation, and if rejected by the Board, a formal complaint may be filed against Respondent. Respondent hereby agrees to waive any right Respondent may have to challenge the impartiality of the Board to hear the disciplinary complaint if, after review by the Board, this Stipulation is rejected.
3. If the Stipulation is not accepted by the Board, it shall be regarded as null and void. Admissions by Respondent in the Stipulation will not be regarded as evidence against Respondent at the subsequent disciplinary hearing.

4. The Consent Order shall not become effective until it has been approved by a majority of the Board and endorsed by a representative member of the Board.

5. Any failure on the part of Respondent to timely and completely comply with any term or condition herein shall be deemed a default.

6. Any default of this Stipulation and Consent Order shall be considered a violation of Idaho Code § 54-2412. If Respondent violates or fails to comply with this Stipulation and Consent Order, the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board. Within twenty-one (21) days after the notice of hearing and charges is served, Respondent shall submit a response to the allegations. If Respondent does not submit a timely response to the Board, the allegations will be deemed admitted.

b. At the hearing before the Board upon default, the Board and Respondent may submit affidavits made on personal knowledge and argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to such affidavits and this Stipulation and Consent Order. Respondent waives a hearing before the Board on the facts and substantive matters related to the violations described in Section A, and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

c. At the hearing, the Board will determine whether to impose additional disciplinary action, which may include conditions or limitations upon Respondent's practice or suspension or revocation of Respondent's license.

7. This Stipulation and Consent Order is the resolution of a contested case and is a public record.

8. This Stipulation and Consent Order contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any

kind, verbal or otherwise.

I have read the above stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I will be waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this stipulation according to the aforementioned terms, and I hereby agree to the above stipulation for settlement. I understand that if the Board approves this stipulation subject to changes, and the changes are acceptable to me, the stipulation will take effect and an order modifying the terms of the stipulation will be issued. If the changes are unacceptable to me or the Board rejects this stipulation, it will be of no effect.

DATED this 17 day of APRIL, 2006.

H. Selimovic Zijad
Zijad Hadziselimovic
Respondent

Approved as to form this 17 day of April, 2006.

SMITH LAW OFFICE, PLLC

By Paul T. Smith
Paul T. Smith
Attorney for Respondent

I concur in this stipulation and order.

DATED this 20th day of April, 2006.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By Emily A. MacMaster
Emily A. Mac Master
Deputy Attorney General

ORDER

Pursuant to Idaho Code § 54-2406, the foregoing is adopted as the decision of the Idaho State Board of Drinking Water and Wastewater Professionals in this matter and shall be effective on the 8 day of May, 2006. **IT IS SO ORDERED.**

IDAHO STATE BOARD OF
DRINKING WATER AND
WASTEWATER PROFESSIONALS

By Bill Thompson
Bill Thompson, Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of May, 2006, I caused to be served a true and correct copy of the foregoing by the following method to:

Zijad Hadziselimovic
2013 Rivercrest Drive, #306
Twin Falls, ID 83301

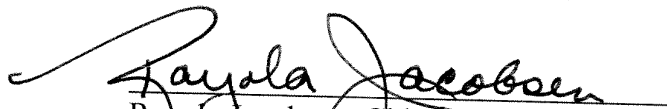
- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Paul T. Smith
Smith Law Office, PLLC
P.O. Box 1941
Boise, ID 83303-1941

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Emily A. Mac Master
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☒ Statehouse Mail


Rayola Jacobsen, Chief
Bureau of Occupational Licenses